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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT SEATTLE

9 TOLL OBUON,

10 Plaintiff,

11 v.

12 JUDGE RICHARD D. EADIE et al.,

13 Defendants.  
14

CASE NO. C18-1296 RSM

ORDER GRANTING DISMISSAL

15 **I. INTRODUCTION**

16 This matter is before the Court on several motions to dismiss filed by all Defendants.  
17 Dkts. #12, #13, and #18. In opposition, Plaintiff has generated numerous filings. Dkts. #22–36,  
18 #38–40, and #42. Several of these were noted by the Court as motions but may be better  
19 understood as opposition to Defendants’ Motions. Regardless, the Court finds that this matter  
20 should be dismissed for the reasons below.<sup>1</sup> The Court accordingly grants Defendants’ Motions  
21 to Dismiss (Dkts. #12, #13, and #18). To the extent Plaintiff’s filings sought relief from this  
22 Court beyond denying Defendants’ Motions, they are denied as moot (Dkts. #22–36, #38–40,  
23 and #42).  
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27 <sup>1</sup> No party has requested oral argument and the Court does not find oral argument necessary to its resolution of the Motions.

## II. BACKGROUND

Plaintiff's Amended Complaint<sup>2</sup> is a confusing mixture of factual allegations, statutory text, and passages from legal treatises. These sources are often intertwined in a manner that obscures the source of the information. The Court struggles to understand the background of this case, but it appears to arise from a lengthy custody dispute between Plaintiff and the mother of his child (also his former spouse). Plaintiff views the events as a grand scheme—involving bribery, evidence tampering, false representations, and more—in which all parties conspired against him to deprive him of his relationship with his daughter.

The mother of Plaintiff's child filed for dissolution some time in December 2013 and a temporary parenting plan was entered. Dkt. #4-1 at 25. Plaintiff maintains that the temporary parenting plan was entered without notice to him. Dkt. #4 at 44. Thereafter, the mother and the child—in violation of the temporary parenting plan—traveled to, and lived in, Kenya between December 2013 and July 2014. *Id.* at 40, 169–170; Dkt. #4-1 at 25. Plaintiff alleges that, despite being out of the country, the mother obtained a domestic violence protection order and harassment protection order around March 19, 2014. Dkt. #4-1 at 26. The mother also provided false claims and information that impacted the evaluation and determination of a final parenting plan. *Id.* at 51–53. A permanent parenting plan was entered around July 9, 2014. Dkt. #4 at 10,

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<sup>2</sup> The State Judicial Defendants argue that the Court should not consider Plaintiff's Amended Complaint (Dkt. #4) because it was filed "without leave of the Court or agreement of the parties." Dkt. #13 at 2 n.2. The Court does not see why this is the case where Plaintiff's Complaint was filed August 31, 2018, and the Amended Complaint was filed on September 18, 2018. Dkts. #1 and #4. Plaintiff is permitted to file an amended complaint "once as a matter of course within: (A) 21 days after serving it, or (B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier." Fed. R. Civ. P. 15(a)(1). Nevertheless, the State Judicial Defendants have fully considered both complaints, the Court does not see any distinctions in the pleadings that would lead to divergent outcomes, and Plaintiff does not argue that there are any.

1 41; Dkt. #4-1 at 26. Under the original parenting plan, Plaintiff had some contact with his child  
2 until about January 8, 2015. Dkt. #4-1 at 31.

3 At some point the mother and third parties accused Plaintiff of “[p]hysical, sexual or a  
4 pattern of emotional abuse of a child.” Dkt. #4 at 15. This included false reporting that led to  
5 Plaintiff’s interaction with the Seattle Police Department (“Defendant Seattle”<sup>3</sup>) for a sexual  
6 abuse investigation. Dkt. #4-1 at 26. Defendant Seattle has aptly distilled Plaintiff’s factual  
7 allegations related to the events of March 4, 2015, and/or March 5, 2015:  
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9 Plaintiff claims that on March 4 [and/or 5], 2015, Defendant “[r]esponded with  
10 [d]eadly force, or lethal force, believing that [Plaintiff] was sexually abusing  
11 [Plaintiff’s] seven year[] [old] daughter . . .” Plaintiff further claims that  
12 Defendant “remov[ed] [Plaintiff’s] child without a court order . . .” Plaintiff also  
alleges that “Seattle police [h]umiliated plaintiff . . .” because Defendants  
“demand[] to see [Plaintiff’s] hand[s] up” caused Plaintiff’s blanket to fall off,  
resulting in Plaintiff’s daughter seeing Plaintiff naked.

13 Dkt. #12 at 2 (citing Dkt. #4 at 46–48) (citations omitted). Plaintiff insinuates that there were  
14 criminal charges filed following the interaction. Dkt. #4 at 70. The event also led to the mother  
15 seeking a restraining order and filing a motion to amend the parenting plan on March 23, 2015.  
16 Dkt. #4-1 at 27. As a result, the King County Superior Court entered a temporary order allowing  
17 the mother to relocate to Snohomish County on April 8, 2016. *Id.* at 43; Dkt. #18 at 2.  
18 Ultimately, at some point around July 20, 2016, Judge Richard D. Eadie of the King County  
19 Superior Court (“Defendant Judge Eadie”) amended the permanent parenting plan and allowed  
20 the mother to relocate Plaintiff’s daughter to Snohomish County. The changes to the parenting  
21 plan negatively impacted Plaintiff because he was no longer able, without approval, to travel  
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26 <sup>3</sup> Defendant Seattle Police Department is the City of Seattle’s Police Department and the City of  
27 Seattle has appeared to respond to Plaintiff’s claims against its police department. Dkts. #5 and  
#6.

1 internationally with his daughter and he was restricted to visiting his daughter on weekends when  
2 he could not do so because of his work schedule. Dkt. #4 at 23; Dkt. #3 at 30–45.

3 Plaintiff appealed Defendant Judge Eadie’s decision to the Washington State Court of  
4 Appeals, but that Court ultimately upheld the decision on November 13, 2017. Dkt. #3 at 64–  
5 72. The Court of Appeals’ decision was authored by Judge Ann Schindler (“Defendant Judge  
6 Schindler”). *Id.* Plaintiff maintains that he timely appealed the Court of Appeals’ decision to  
7 the Washington State Supreme Court on December 4, 2017, that he re-filed his appeal on  
8 December 29, 2017, and that he sought an extension of time to file his appeal. Dkt. #4-1 at 3,  
9 67. This request was denied by Department II of the Washington Supreme Court on May 2,  
10 2018, and Plaintiff’s petition for review was dismissed. *Id.* Department II of the Court was  
11 composed of Chief Justice Fairhurst and Justices Madsen, Stephens, Gonzalez, and Yu  
12 (collectively, the “Washington State Supreme Court Defendants”). *Id.* Following dismissal,  
13 Plaintiff appears to have then filed a petition for review by the U.S. Supreme Court on September  
14 18, 2018. *Id.* at 139.

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17 Because of Plaintiff’s dissatisfaction with the result of his state court case, Plaintiff  
18 initiated this action against Defendant Seattle, Defendant Judge Eadie, Defendant Judge  
19 Schindler, and Washington State Supreme Court Defendants (Defendant Judge Schindler and  
20 Washington State Supreme Court Defendants are referred to collectively as the “State Judicial  
21 Defendants”). Plaintiff alleges that “Defendants conspired to intentionally and deliberately  
22 inflict emotional distress” on Plaintiff. Dkt. #4 at 5. As a result, Plaintiff “has suffered and will  
23 continue to suffer mental pain and anguish, severe emotional trauma, embarrassment, and  
24 humiliation.” *Id.* Further, Plaintiff alleges that he has been unsuccessful in applying to several  
25 jobs due to a criminal record resulting from the contact with Defendant Seattle. *Id.* at 144.  
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1 Due to these damages, Plaintiff alleges a broad swath of criminal and civil claims under  
2 International law, the U.S. Constitution, federal law, and various state laws. *Id.* at 6–8. These  
3 include, in part, intentional infliction of emotional distress, tampering with evidence, tampering  
4 with witnesses, speedy trial violation, tortious interference with parental rights, claims under  
5 § 1983, conspiracy against rights, defamation, solicitation to commit a crime of violence,  
6 misappropriation of name and likeness, and unjust enrichment. *See generally*, Dkt. #4.

### 7 8 **III. DISCUSSION**

#### 9 **A. Legal Standards**

10 In considering a Federal Rule of Procedure 12(b)(6) motion, the court accepts all facts  
11 alleged in the complaint as true and makes all inferences in the light most favorable to the non-  
12 moving party. *Baker v. Riverside Cnty. Office of Educ.*, 584 F.3d 821, 824 (9th Cir. 2009)  
13 (citations omitted). However, the court is not required to accept as true a “legal conclusion  
14 couched as a factual allegation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl.*  
15 *Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). “Determining whether a complaint states a  
16 plausible claim for relief will . . . be a context-specific task that requires the reviewing court to  
17 draw on its judicial experience and common sense.” *Id.* at 679 (citations omitted).

19 A complaint must contain sufficient facts “to state a claim to relief that is plausible on its  
20 face.” *Id.* at 678. This requirement is met when the plaintiff “pleads factual content that allows  
21 the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.”  
22 *Id.* The complaint need not include detailed allegations, but it must have “more than labels and  
23 conclusions, and a formulaic recitation of the elements of a cause of action will not do.”  
24 *Twombly*, 550 U.S. at 555. “The plausibility standard is not akin to a probability requirement,  
25 but it asks for more than a sheer possibility that a defendant has acted unlawfully. . . . Where a  
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1 complaint pleads facts that are merely consistent with a defendant’s liability, it stops short of the  
2 line between possibility and plausibility of entitlement to relief.” *Iqbal*, 556 U.S. at 678 (citing  
3 *Twombly*, 550 U.S. at 556, 557). Absent facial plausibility, a plaintiff’s claims must be  
4 dismissed.

5 **B. All Claims Against Defendant Seattle Are Barred by the Statute of Limitations**

6 Defendant Seattle argues that because all events involving it and leading to Plaintiff’s  
7 claims against it all occurred on March 4 or 5, 2015, Plaintiff’s 42 U.S.C. § 1983 claims are  
8 barred by the applicable statute of limitations. Defendant Seattle’s Motion, supported with legal  
9 authority, correctly details that (1) 42 U.S.C. § 1983 borrows state law statutes of limitation; (2)  
10 Plaintiff’s claims are subject to a three-year statute of limitations; (3) even if a 65-day tolling  
11 period was implicated,<sup>4</sup> Plaintiff’s action would be untimely;<sup>5</sup> and (4) no equitable tolling  
12 doctrine should be applied in this case. Dkt. #12 at 3–6 (and authorities cited therein).  
13

14 Plaintiff did not file a timely opposition to Defendant Seattle’s Motion. Local Civil  
15 Rule 7 provides that a party opposing a motion shall timely “file with the clerk, and serve on  
16 each party that has appeared in this action, a brief in opposition to the motion . . . . Except for  
17 motions for summary judgement, if a party fails to file papers in opposition to a motion, such  
18 failure may be considered by the court as an admission that the motion has merit.” LCR 7(b)(2).  
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20 Defendant Seattle’s Motion was noted for November 30, 2018, and Plaintiff did not make a filing  
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22 <sup>4</sup> The Court does not agree with Defendant Seattle that Section 4.92.110 of the Revised Code of  
23 Washington is implicated here. That provision applies to certain actions “commenced against  
24 the state, or against any state officer, employee, or volunteer.” Wash. Rev. Code 4.92.110.  
25 Nevertheless, an equivalent provision applies to actions against Defendant Seattle. *See* Wash.  
Rev. Code 4.96.020(4). The Court need not consider whether the extension to the statute of  
limitations applies here, as it would not affect the result.

26 <sup>5</sup> On the most generous reading, Plaintiff’s claims related to events occurring on March 5, 2015,  
27 would have had to be filed by May 14, 2018. Plaintiff did not file this action until August 31,  
2018. Dkt. #1.

1 in opposition by November 26, 2018. *See* LCR 7(d)(3). Defendant Seattle, in its reply, attached  
2 a copy of papers received from Plaintiff but not filed with the Court. Dkt. #17-1. The Court  
3 need not consider the opposition Plaintiff sent Defendant Seattle. Nevertheless, the Court does  
4 consider the response below, in the context of Plaintiff's other filings. Suffice it to say that  
5 nothing in Plaintiff's response gives the Court pause in dismissing the action.

### 6 **C. Plaintiff's Claims Against State Judicial Defendants Are Barred**

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8 The State Judicial Defendants successfully argue that Plaintiff's claims against them<sup>6</sup>  
9 must be dismissed based on judicial immunity, state sovereign immunity, the *Rooker-Feldman*  
10 doctrine, and for failing to state a claim. Dkt. #13 at 2. For the reasons specified by the State  
11 Judicial Defendants, the Court agrees on all four points.

12 First, judges are immune to suits for damages or injunctive relief for claims arising out of  
13 their official duties. Dkt. #13 at 4 (citing *Mireles v. Waco*, 502 U.S. 9 (1991) ("A long line of  
14 this court's precedents acknowledges that, generally, a judge is immune from a suit for money  
15 damages."); *Moore v. Urquhart*, 899 F.3d 1094, 1104 (9th Cir. 2018) (holding that 42 U.S.C.  
16 § 1983 provides judicial officers immunity from injunctive relief when the common law would  
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19 <sup>6</sup> The State Judicial Defendants identify the claims against them as:

20 Obuon challenges Judge Schindler's findings of fact as the crime of "rewriting  
21 evidence," Wash. Rev. Code § 9A.72.150, and the crime of fabricating evidence  
22 in violation of 18 U.S.C. § 1519. Dkt. #4 at 12, 32, 33, 61. Obuon also alleges  
23 that Judge Schindler and the Supreme Court Justices conspired with the mother  
24 of his child and thus committed the crime of conspiracy in violation of Wash. Rev.  
25 Code § 9A.28.030. *Id.* at 16–17. Obuon further claims that by dismissing his late  
26 filed petition for review, the Supreme Court denied him of his right to be heard  
under the Washington State Code of Judicial Conduct Rule 2.6, "Ensuring the  
Right to be Heard." *Id.* at 35. To compensate him, Obuon asks this Court to  
award \$51 million in damages for financial, reputational, emotional, and  
professional injuries. *Id.* at 4.

27 Dkt. #13 at 3 (footnotes omitted).

1 not)). Plaintiff makes no allegations of conduct taken outside of the State Judicial Defendants'  
2 judicial capacity and the claims are therefore barred by judicial immunity.

3 Second, “[a]bsent an express waiver or a valid abrogation by Congress, a state’s sovereign  
4 immunity bars a lawsuit against the state in federal court. *See Seminole Tribe of Florida v.*  
5 *Florida*, 517 U.S. 44 (1996).” Dkt. #13 at 5. Plaintiff points to no authority to show that the  
6 State Judicial Defendants have waived immunity.

7 Third, Plaintiff’s claims are precluded by the *Rooker-Feldman* doctrine. That doctrine  
8 prevents federal district courts from otherwise exercising jurisdiction in a narrow set of “cases  
9 brought by state-court losers complaining of injuries caused by state-court judgments rendered  
10 before the district court proceedings commenced and inviting district court review and rejection  
11 of those judgments.” *Lance v. Dennis*, 546 U.S. 459, 464 (2006) (quoting *Exxon Mobil Corp. v.*  
12 *Saudi Basic Indus. Corp.*, 54 U.S. 280, 284 (2005) (quotation marks omitted). Here, Plaintiff’s  
13 action clearly seeks to relitigate his child custody action and is therefore barred.

14 Fourth, because the cogent legal actions in Plaintiff’s Amended Complaint are barred for  
15 the above reasons, Plaintiff’s Amended Complaint fails to adequately plead a legal claim.  
16 Plaintiff alleges that the actions taken by the mother, third parties, and Defendants constitute  
17 various crimes and violations without showing that he may pursue a personal claim on those  
18 crimes and violations. *See generally*, Dkt. #13 at 6–7. Further, Plaintiff’s factual allegations do  
19 not adequately support the crimes and violations alleged.

20 As discussed more thoroughly below, Plaintiff has made numerous filings<sup>7</sup> that can be  
21 interpreted as responses to State Judicial Defendants’ Motion. But none has advanced a cogent  
22 legal argument for why this action should not be dismissed.

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23 <sup>7</sup> Plaintiff in fact has served several opposition briefs. First, Plaintiff served, but failed to file, an  
24 opposition upon the State Judicial Defendants, who then attached a copy of that opposition to  
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1                   **D. Plaintiff's Claims Against Judge Richard D. Eadie Are Barred**

2                   Plaintiff's claims against Defendant Judge Eadie also fail because of judicial immunity.  
3 Defendant Judge Eadie adopts and joins the arguments for dismissal made by the State Judicial  
4 Defendants and makes further argument for dismissal based on judicial immunity. Dkt. #18.  
5 While Defendant Judge Eadie does not establish that all the State Judicial Defendants' arguments  
6 apply equally to him,<sup>8</sup> the arguments related to judicial immunity and the Amended Complaint's  
7 failure to adequately plead a legal claim do. As discussed below, even considering Plaintiff's  
8 filings,<sup>9</sup> dismissal of Plaintiff's claims against Defendant Judge Eadie is appropriate.  
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10                   **E. Plaintiff's Numerous Filings Do Not Weigh Against Dismissal**

11                   Plaintiff has made numerous and lengthy filings in this matter and has served additional  
12 papers that he did not file. Many of the filing suffer from procedural flaws, being untimely<sup>10</sup> or  
13 over-length,<sup>11</sup> are nearly incoherent or incomprehensible, and do nothing to demonstrate that this  
14 matter should not be dismissed.  
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18 their reply. Dkt. #16 at 7–59. The State Judicial Defendants subsequently renoted their Motion  
19 and Plaintiff made a multitude of filings that are best understood as oppositions. Specifically,  
20 and regarding State Judicial Defendants' Motion, Plaintiff filed Docket Nos. 22–30, 32, 34, 38–  
40, and 42. As discussed further in this Order, Plaintiff's filings do nothing to establish that this  
matter should not be dismissed.

21 <sup>8</sup> For instance, Defendant Judge Eadie does not provide authority demonstrating that State  
22 Judicial Defendants' state sovereign immunity argument extends to the County and its judges.

23 <sup>9</sup> Regarding Defendant Judge Eadie, Plaintiff filed Docket Nos. 23, 27, and 34, but it is unclear  
24 whether these filings oppose dismissal of Plaintiff's claims against Defendant Judge Eadie.

25 <sup>10</sup> LCR 7(d)(3) (requiring opposition filings the Monday before the noting date or the Friday  
26 before the noting date if served by mail).

27 <sup>11</sup> LCR 7(e) (briefs opposing motions to dismiss limited to twenty-four pages and no briefing  
exceeding twenty-four pages without leave of the Court).

1 In response to Defendant Seattle's Motion, Plaintiff merely argues that Defendant Seattle  
2 should be liable because it failed to adequately document the encounter with Plaintiff, the  
3 resulting report was false, and that the officers' actions were not in accordance with policy. Dkt.  
4 #17-1 at 3–4. For support, Plaintiff includes only irrelevant legal authorities and argues legal  
5 theories that are unsupported by his factual allegations. Dkt. #17-1 at 5–6. Plaintiff grasps for  
6 any legal authority that sounds as if it may benefit his case and argues, with these inapplicable  
7 authorities, that his cause of action accrued at some time other than when the damaging events  
8 took place and that the statute of limitations was tolled by inapplicable doctrines. Dkt. #17-1 at  
9 8–14. Plaintiff's response wholly fails to respond to the arguments at issue.

11 Likewise, Plaintiff's opposition to State Judicial Defendant's Motion once again  
12 assembles a vast compilation of legal authorities that Plaintiff believes support his desired  
13 outcome. Dkt. #16 at 7–59. But, Plaintiff does not provide any logical argument for why  
14 doctrines developed in vastly different situations should apply to his case. Plaintiff provides the  
15 Court no assistance in connecting Plaintiff's disparate theories to the issues of this case.

17 Plaintiff proceeds in this manner, making numerous lengthy filings. Dkts. #22–36, #38–  
18 40, and #42. In sum, Plaintiff has filed more than 600 pages of ruminations on the injustice he  
19 believes was perpetrated against him. Many of these filings are unclear as to whether they are  
20 filed in opposition to Defendants' Motions or whether Plaintiff seeks some relief of his own. *See*  
21 *e.g.* Dkts. #22–24 and #26–28. But none provide a clear legal argument, much less a legal basis  
22 for this action. Plaintiff grasps at any legal authority, regardless of relevance, that appears to  
23 support his desired outcome but provides the Court with no assistance in interpreting Plaintiff's  
24 lengthy materials. If Plaintiff made a relevant legal argument in his more than 600 pages of  
25 filings, the Court could not find it.

1 Putting aside the procedural deficiencies, Plaintiff's filings, even cumulatively, do  
2 nothing to alter the clear outcome compelled by Defendants' Motions. This action should be  
3 dismissed. As a result, and to the extent Plaintiff's filings seek relief from this Court, the Court  
4 denies the filings as moot.

5 **F. The Court Does Not Grant Plaintiff Leave to Amend**

6 Ordinarily, leave to amend a complaint should be freely given following an order of  
7 dismissal, "unless it is absolutely clear that the deficiencies of the complaint could not be cured  
8 by amendment." *Noll v. Carlson*, 809 F.2d 1446, 1448 (9th Cir. 1987); *see also DeSoto v. Yellow*  
9 *Freight Sys., Inc.*, 957 F.2d 655, 658 (9th Cir. 1992) ("A district court does not err in denying  
10 leave to amend where the amendment would be futile.") (citing *Reddy v. Litton Indus., Inc.*, 912  
11 F.2d 291, 296 (9th Cir. 1990)).

12 Here, Plaintiff's claims against these Defendants are clearly barred for the reasons set  
13 forth above. Plaintiff has been unable to identify or apply any legal authority that demonstrates  
14 a different outcome is possible. As doing so would be futile, the Court does not grant Plaintiff  
15 leave to amend his claims against Defendants.

16 **IV. CONCLUSION**

17 Having reviewed the Motions, the relevant briefing, and the remainder of the record, the  
18 Court hereby finds and ORDERS:

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- 20 1. Defendant City of Seattle on Behalf of the Seattle Police Department's Motion to  
21 Dismiss Under Rule 12(b)(6) (Dkt. #12) is GRANTED.
  - 22 2. State Judicial Defendants' Motion to Dismiss (Dkt. #13) is GRANTED.
  - 23 3. Defendant Judge Richard D. Eadie's 12(b)(6) Motion to Dismiss (Dkt. #18) is  
24 GRANTED.
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1 4. To the extent any of Plaintiff's filings were motions to this Court, they are DENIED  
2 as moot.

3 5. The Court DENIES Plaintiff leave to amend his Amended Complaint.

4 6. All of Plaintiff's claims are DISMISSED WITH PREJUDICE.

5 7. This matter is now CLOSED.

6 DATED this 14<sup>th</sup> day of February 2019.

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9 RICARDO S. MARTINEZ  
10 CHIEF UNITED STATES DISTRICT JUDGE  
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